

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208
)	
Petition to Correct Mobility Fund Phase II Map)	
of Presumptively Eligible and Ineligible Areas and)	
to Extend Challenge Process Filing Window)	

**PETITION OF MISSOURI RSA 5 PARTNERSHIP d/b/a CHARITON VALLEY
WIRELESS SERVICES TO CORRECT MOBILITY FUND PHASE II MAP OF
PRESUMPTIVELY ELIGIBLE AND INELIGIBLE AREAS AND TO EXTEND
CHALLENGE PROCESS FILING WINDOW**

Missouri RSA 5 Partnership a/k/a Missouri RSA No. 5 Partnership d/b/a Chariton Valley Wireless Services (“Chariton Valley”), by its attorneys, respectfully petitions the Federal Communications Commission (“FCC” or “Commission”) to correct underlying subsidy data and the resulting Mobility Fund Phase II (“MFII”) map of areas presumptively eligible and ineligible for MFII support. Chariton Valley also requests a waiver of the MFII challenge process procedures to allow a brief extension of the period of time to drive test and submit challenge data related to presumptively ineligible areas in the areas subject to correction.¹

As explained in greater detail below, the current version of the MFII map and the underlying subsidy data fail to reflect that Chariton Valley and USCOC of Greater Missouri, LLC (“US Cellular”) are subsidized providers in a large triangular area in Chariton County,

¹ See Public Notice, *Procedures for the Mobility Fund Phase II Challenge Process*, WC Docket No. 10-90, WT Docket No. 10-208, DA 18-186, ¶ 11 (rel. Feb. 27, 2018) (“Challenge PN”). See also, *Connect America Fund, Universal Service Reform—Mobility Fund*, Order, Notice of Proposed Rulemaking, and Memorandum Opinion and Order, WC Docket No. 10-90, WT Docket No. 10-208, ¶ 1 (rel. Aug. 21, 2018) (extending the MFII challenge window until November 26, 2018).

Missouri (the “Subsidized Area”). A copy of the map showing the Subsidized Area is attached as Attachment 1. Because the current map and subsidy data fail to reflect that Chariton Valley and US Cellular are subsidized providers in the Subsidized Area, qualifying 4G LTE coverage by Chariton Valley and US Cellular submitted in connection with the one-time data collection renders numerous census blocks in the Subsidized Area as presumptively ineligible for MFII support. Upon correction of the subsidy data and map as requested herein, additional census blocks in the Subsidized Area will be presumptively eligible for support. In addition, upon correction of the subsidy data and map, additional census blocks in the Subsidized Area will be reflected as served by only one, unsubsidized provider, making these areas reasonable to drive-test and challenge.²

Based on communications with FCC staff, it appears that Chariton Valley and US Cellular are not reflected as subsidized providers in the Subsidized Area because TomTom wire center boundary data from the time that Chariton Valley and US Cellular were designated as eligible telecommunications carriers (“ETCs”) in 2006 and 2007, respectively, incorrectly identifies the triangular Subsidized Area as an “open” area that was not encompassed as part of any wire center at that time.³ The Subsidized Area, however, was not an open, unserved area in

² Census blocks in which an unsubsidized mobile service provider offers qualifying 4G LTE coverage are presumptively ineligible for MFII support, but the coverage of these areas may be challenged, and a successful challenge would make these areas eligible for MFII support. Chariton Valley, however, previously could not challenge coverage in the Subsidized Area because Chariton Valley could not challenge its own coverage.

³ In identifying subsidized areas, the FCC used “shape data from the TomTom Telecommunications Suite to determine the boundary of a wire center identified in the USAC subsidy data.” Challenge PN at App. A, n. 4. Because wire center boundaries can change over time, the FCC considered the “boundary of the wire center for which a provider is receiving frozen high-cost support subsidy to be the boundary as it existed when the provider was first designated as eligible for support (as reported by USAC). If the appropriate vintage of the TomTom wire center boundary data that was current on the date the provider was designated as eligible for support does not include the boundary for a particular wire center, ...[the FCC] ignore[d] that wire center when removing subsidized areas.” *Id.*

2006 or 2007. Rather, the Subsidized Area was included in exchanges that were identified as the service areas of two rural telephone companies, Alltel Missouri, Inc. (“Alltel”) and Spectra Communications Group, LLC (“Spectra”).

When the Missouri Public Service Commission (“MO PSC”) designated Chariton Valley as a competitive ETC on September 21, 2006, the MO PSC designated Chariton Valley as a competitive ETC in the Alltel and Spectra exchanges that comprise the Subsidized Area. Following its ETC designation, Chariton Valley was, and continues to be, a subsidized competitive carrier in the exchanges that comprise the Subsidized Area. Similarly, when the MO PSC designated US Cellular as a competitive ETC in 2007, it did so in the exchanges that comprise the Subsidized Area.

The TomTom data clearly is in error, and the Commission should correct the subsidy data and resulting MFII map of presumptively eligible and ineligible areas. Correcting this data will result in the map accurately reflecting the areas that lack unsubsidized qualified 4G LTE coverage and in which MFII support should be available.

I. The Subsidized Area Was Within the Service Areas of Alltel or Spectra in 2006 and 2007.

There are four contiguous exchanges that encompass the triangular Subsidized Area: Mendon, Rothville, Keytesville, and Brunswick. The Mendon exchange (or wire center) makes up the largest part of the Subsidized Area, but small portions of the Subsidized Area also area found in the Rothville, Keytesville, and Brunswick exchanges (or wire centers). The Mendon and Rothville exchanges were included as service areas in the Alltel tariff that was on file with the MO PSC and in effect at the time that Chariton Valley obtained its ETC designation on September 21, 2006. The Alltel tariff was effective January 9, 2006, and it was cancelled on August 20, 2015. The Keytesville and Brunswick exchanges were included as service areas in the Spectra tariff that was on file with the MO PSC and in effect at the time that Chariton Valley

obtained its ETC designation in 2006. The Spectra tariff was effective December 13, 2000, and it was cancelled on October 1, 2014. Copies of the maps for the Mendon, Rothville, Keytesville, and Brunswick exchanges are attached as Attachment 2.⁴

As reflected in these tariffs, the triangular Subsidized Area was not “open” unserved area. Rather, this area was within the various exchanges served by Alltel or Spectra. The TomTom data that apparently suggests otherwise is erroneous.

II. Chariton Valley Was Designated as a Competitive ETC in the Subsidized Area in September 2006.

In 2006, Chariton Valley sought designation as an ETC in certain non-rural telephone company areas and portions of the rural study areas of certain rural telephone companies, including Alltel and Spectra.⁵ Chariton Valley also identified the wire centers in which it was requesting ETC designation, including Mendon, Rothville, Keytesville, and Brunswick.⁶ On September 21, 2006, the MO PSC granted Chariton Valley’s request for ETC designation, with certain exceptions, but included the Mendon, Rothville, Keytesville, and Brunswick exchanges in the designation area.⁷ Following the ETC Order, Chariton Valley filed a motion requesting that the MO PSC amend the ETC Order “to include language that will clarify the service area for which it designated MO 5 as an eligible telecommunications carrier for federal Universal Service

⁴ The exchange boundaries on the maps are highlighted because the maps are old and somewhat difficult to read as they are copies from paper-filed tariffs. These tariffs are not available from the MO PSC website, but the MO PSC located the cancelled tariffs and provided copies of the maps upon request.

⁵ *See In the Matter of the Application of Missouri RSA No. 5 Partnership for Designation as a Telecommunications Company Carrier Eligible for Federal Universal Service Support Pursuant to § 254 of the Telecommunications Act of 1996*, Report and Order, Missouri Public Service Commission, Case No. TO-2006-0172, at 3 (Issue Date: Sept. 21, 2006), (“ETC Order”).

⁶ *See id.* at 7.

⁷ *See id.* at 36.

Fund purposes.” On March 1, 2007, the MO PSC issued an Order Granting Motion To Amend Report and Order, stating that:

Because MO 5 sought eligible telecommunications carrier status in an area served by a rural telephone company, and seeks that status for an area other than the rural carrier’s entire study area, 47 CFR 54.207 requires that the service area of *Alltel Missouri, Inc.*, Grand River Mutual Telephone Corporation, Mark Twain Rural Telephone Company, and *Spectra Communications Group, LLC*, d/b/a CenturyTel, be redefined in order for MO 5 to be eligible to receive federal universal service support. The Commission intended for its order to specify the service areas in which MO 5 was designated as an ETC and make the redefinitions as necessary. The order, however, was not clear on these points. Therefore, the Commission hereby clarifies and amends its Report and Order to include the following findings and conclusions. ...

Further, the Commission designated MO 5 an ETC in the partial study areas of *Alltel*, Grand River Mutual, Mark Twain, and *Spectra*. For these partial rural study areas, pursuant to Section 214(e)(5) of the Communications Act of 1934, as amended, and Federal Communications Commission (FCC) Rule 54.207, the Commission designated MO 5 as an ETC in the complete wire centers as follows:

Alltel Missouri

Laclede
Mendon
Rothville
Sumner

...

Spectra

Brunswick
Clarence
Dalton
Elmer
Hunnewell
Keytesville
La Plata
Macon
Shelbina
Shelbyville

... [T]he Commission approves MO 5's request to redefine the service areas of *Alltel*, Grand River Mutual, Mark Twain, and *Spectra*.⁸

⁸ *In the Matter of the Application of Missouri RSA No. 5 Partnership for Designation as a Telecommunications Company Carrier Eligible for Federal Universal Service Support Pursuant to § 254 of the Telecommunications Act of 1996*, Order Granting Motion To Amend Report and

Following the MO PSC's approval of Chariton Valley's request to redefine each wire center as a separate service area for Alltel and Spectra and for the two other rural telephone companies where Chariton Valley requested ETC designation in partial study areas, Chariton Valley filed a Petition for Redefinition with the Commission on March 12, 2007.⁹ The Commission issued a Public Notice on the Petition for Redefinition on March 26, 2007, and because the Commission did not act on the Petition by June 25, 2007, the definition proposed by the MO PSC was deemed approved.¹⁰ Chariton Valley began receiving high cost support as a competitive ETC in the Mendon, Rothville, Keytesville, and Brunswick exchanges as of June 25, 2007. Accordingly, Chariton Valley is a subsidized mobile services provider in these exchanges (wire centers) in the Subsidized Area, and Chariton Valley's coverage should not render census blocks in the Subsidized Area as presumptively ineligible for MFII support.

III. US Cellular Was Designated as a Competitive ETC in the Subsidized Area in May 2007.

In 2005, US Cellular sought designation as an ETC in its service area in Missouri and requested that the MO PSC redefine portions of the study areas of several rural telephone companies that fell outside of US Cellular's licensed service area. The study areas of Alltel and Spectra were included in that request, and the exchanges that US Cellular sought to serve as an ETC included the Mendon, Rothville, Keytesville, and Brunswick exchanges. The MO PSC granted US Cellular's ETC designation request, including the redefinition request, on May 3,

Order, Missouri Public Service Commission, Case No. TO-2006-0172, at 3 (Issue Date: March 1, 2007) (emphasis added).

⁹ *Federal-State Joint Board on Universal Service, Missouri RSA No. 5 Partnership, Petition for FCC Agreement to Redefine the Study Areas of Four Rural Telephone Companies in Missouri*, Petition for Redefinition, CC Docket No. 96-45 (March 12, 2007).

¹⁰ Public Notice, *The Wireline Competition Bureau Seeks Comment on a Petition by Missouri RSA No. 5 Partnership to Redefine the Study Areas of Four Rural Telephone Companies in Missouri*, CC Docket No. 96-45, DA-07-1424 (rel. March 26, 2007).

2007, but made the designation in the wire centers to be redefined, which included the four exchanges in the Subsidized Area, conditional on the FCC's concurrence for the redefinition.¹¹

On September 27, 2007, the FCC issued a Public Notice seeking comment about US Cellular's request to redefine the study areas identified in its Missouri ETC application, which redefinition request would have become effective on December 26, 2007, absent initiation of a proceeding by the Commission to consider the redefinition petition.¹² On December 26, 2007, the FCC issued a Public Notice initiating a proceeding to consider US Cellular's redefinition petition.¹³ On January 29, 2008, the FCC issued another Public Notice seeking comment about US Cellular's request to redefine the Missouri study areas, which redefinition request became effective on April 28, 2008, 90 days after the release of the Public Notice.¹⁴ Accordingly, US Cellular was designated as an ETC in the Alltel and Spectra exchanges (wire centers) that comprise the Subsidized Area, and US Cellular is a subsidized carrier in the Subsidized Area. Accordingly, US Cellular's coverage should not render census blocks in the Subsidized Area as presumptively ineligible for MFII support.

¹¹ *In the Matter of the Application of USCOC of Greater Missouri, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996*, Report and Order, Missouri Public Service Commission, Case No. TO-2005-0384, at 38 (Issue Date: May 3, 2007, Effective Date: May 13, 2007).

¹² Public Notice, *Comment Sought on a Petition by USCOC of Greater Missouri, LLC d/b/a U.S. Cellular to Redefine the Service Areas of Certain Rural Incumbent Local Exchange Carriers in Missouri*, CC Docket No. 96-45, DA 07-4086 (rel. Sept. 27, 2007).

¹³ Public Notice, *Initiation of a Proceeding to Consider a Petition Filed by USCOC of Greater Missouri, LLC d/b/a U.S. Cellular to Redefine Certain Rural Telephone Company Service Areas in the State of Missouri*, CC Docket No. 96-45, DA 07-5092, (rel. Dec. 26, 2007).

¹⁴ Public Notice, *Comment Sought on a Petition by USCOC of Greater Missouri, LLC d/b/a U.S. Cellular to Redefine the Service Areas of Certain Rural Incumbent Local Exchange Carriers in Missouri*, CC Docket No. 96-45, DA 08-181 (rel. Jan. 29, 2008).

IV. The Commission Should Correct the Subsidy Data and Map to Reflect that Chariton Valley and US Cellular Are Subsidized Providers in the Subsidized Area.

Chariton Valley requests that the Commission correct the underlying subsidy data and MFII map to reflect that: (1) Chariton Valley and US Cellular are subsidized providers in the Subsidized Area, and accordingly qualifying LTE coverage by Chariton Valley and/or US Cellular does not render census blocks in the Subsidized Area ineligible for MFII support; and (2) census blocks within the Subsidized Area where there is only *subsidized*, qualified 4G LTE coverage are presumptively eligible for MFII support. Upon correction of the map, certain census blocks will remain presumptively ineligible because of purported coverage by at least one unsubsidized 4G LTE provider. Coverage in these census blocks should be subject to challenge. Correcting the underlying subsidy data to reflect subsidized coverage by Chariton Valley and US Cellular, however, will mean that many of the remaining presumptively ineligible areas will be covered only by a single unsubsidized provider. This will make a challenge of such coverage reasonable and efficient. Accordingly, Chariton Valley also requests that the Commission waive the MFII Challenge procedures to provide for a brief extension of time of the MFII challenge window for two weeks from the release of a corrected map so that Chariton Valley will have sufficient time to drive test and submit challenge results for the presumptively ineligible census blocks in the Subsidized Area based on the corrected MFII map as requested herein.

Correction of the subsidy data and map is necessary for the Commission to achieve its objective of accurately identifying the areas that lack unsubsidized qualified LTE coverage. Chariton Valley does not believe any waiver of the rules is necessary for the Commission to make this correction. The TomTom data is in error as demonstrated above, and as clearly obvious from examination of the triangular Subsidized Area itself. This area was not an unserved “open” area, but was within the service areas of Alltel or Spectra. To the extent,

however, that the Commission determines that a waiver of the MFII procedures is necessary in order to make the requested correction, then such a waiver is justified.

The Commission may waive its rules for good cause shown¹⁵ or where: (i) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances, application of the rule would be inequitable, unduly burdensome, contrary to the public interest, or the applicant has no reasonable alternative.¹⁶

There is good cause for grant of the requested relief. Correction of the subsidy data is necessary to accurately identify the areas that lack unsubsidized qualifying LTE coverage. This is the fundamental purpose of the MFII data submission and challenge process, *i.e.*, to obtain an accurate map of areas that lack service and which need MFII support. Strict use of the inaccurate TomTom data to disregard the subsidized nature of coverage in the Subsidized Area would undermine the purpose of the MFII data collection and challenge process. Correction of the subsidy data and map would serve the public interest by providing a more accurate assessment of unsubsidized coverage. Moreover, the requested correction will result in only a very small increase in the number of presumptively eligible areas.

There also is good cause to extend the challenge process filing window to allow Chariton Valley, or other challengers, to challenge the presumptively ineligible areas in the Subsidized Area following correction of the map as requested herein. As noted above, previously, Chariton Valley could not challenge its own coverage in the Subsidized Area, and it would have been wasteful and inefficient to try to drive-test and challenge US Cellular's subsidized coverage. In order to give parties a reasonable time to drive-test and challenge coverage in the Subsidized

¹⁵ See 47 C.F.R. § 1.3.

¹⁶ See 47 C.F.R. § 1.925.

Area, the Commission should extend the challenge process filing window for census blocks in the Subsidized Area for a period of two weeks from the Commission's release of a public notice correcting the subsidy data and map as requested herein.

For the reasons set-forth above, the Commission should correct the underlying subsidy data and resulting MFII map and afford parties a brief extension of time to challenge the remaining unsubsidized coverage in the Subsidized Area.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Whiteaker', with a long horizontal flourish extending to the right.

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